

PERSONNEL

MERIT SYSTEM BOARD

Selection and Appointment

Readoption with Amendments: N.J.A.C. 4A:4

Proposed: June 2, 2003 at 35 N.J.R. 2389(a)

Adopted: September 3, 2003 by the Merit System Board, Ida L. Castro, Commissioner,
Department of Personnel.

Filed: , 2003 d. , without change.

Authority: N.J.S.A. 11A:2-6(d), 11A:4-1 et seq., 11A:7-13, 38:23A-2, 40A:9-1.3 through
1.10, 40A:14-9.9, 40A:14-10.1a, 40A:14-12, 40A:14-45, 40A:14-123.1a, 40A:14-127,
40A:14-127.1 and 40A:14-180; P.L. 1992, c.197; and Executive Order No. 10 (1982).

Effective Date: , 2003, readoption.

October 6, 2003, amendments.

Expiration Date: , 2008.

Summary of Hearing Officer Recommendations and Agency Responses:

A public hearing on the proposed readoption with amendments was held on June 18, 2003 in Trenton, New Jersey. Elizabeth Rosenthal served as hearing officer. No comments were received on the proposed readoption with amendments at that time, and no recommendations were made by the hearing officer. One written comment was received. The record of the public hearing may be reviewed by contacting Henry Maurer, Director, Division of Merit System Practices and Labor Relations, Department of Personnel, P.O. Box 312, Trenton, New Jersey 08625-0312.

Summary of Public Comments and Agency Responses:

COMMENT: Carolyn Selmon, a New Jersey Department of Human Services employee, commented that N.J.A.C. 4A:4-2.15(c)1, which concerns promotional examination credits for PAR (performance evaluation) ratings, will have to be revised to reflect the new negotiations agreement for State employees that has modified the PAR process to a pass/fail system.

RESPONSE: The Merit System Board is aware of the new contract provisions

regarding the PAR process. New Jersey Department of Personnel staff are currently reviewing the process to determine the changes that will need to be made to the PAR system in light of the contract provisions. Once this review is concluded, amendments to N.J.A.C. 4A:4-2.15 and other affected rules will be drafted.

COMMENT: Ms. Selmon suggests amending N.J.A.C. 4A:4-4.2(c)2ii, which currently provides as follows:

When a certification is comprised of multiple lists and an eligible's name appears more than once, the eligible will only be counted once for purposes of making a complete certification.

She suggests that this language be modified to state that an individual whose name appears on more than one of the lists shall only be counted once for purposes of a complete certification *for the same office/program/bureau within the unit scope*. She wants the eligible to retain the opportunity to be certified for other offices/programs/bureaus within the unit scope.

RESPONSE: The commenter's concerns are already addressed by the present certification process. A complete certification is needed to fill a vacancy in a unit scope. However, in some instances, a complete certification can only be issued by using names from more than one appropriate list. If another vacancy occurs in the unit

scope, another certification will have to be issued. The fact that an eligible's name appeared on the previous certification but was counted only once despite being on multiple lists will not affect the eligible's appointment opportunities in the unit scope arising from this new certification.

COMMENT: Ms. Selmon commented that N.J.A.C. 4A:4-4.8(a)3 should be amended to list promotional appointments before open competitive appointments because promotional appointments are favored in the civil service system.

RESPONSE: The Board does not believe that such an amendment to the rule is necessary. N.J.A.C. 4A:4-4.8 concerns the disposition of a certification. The rule does not govern priorities of appointment. That concept is governed by N.J.A.C. 4A:4-3.7, Priority of eligible lists. N.J.A.C. 4A:4-3.7(a) clearly states that promotional lists shall take priority over certain special reemployment lists, regular reemployment lists, police or fire reemployment lists, and open competitive lists. Therefore, this priority need not be reiterated in N.J.A.C. 4A:4-4.8.

Federal Standards Statement

A Federal standards analysis is not required because N.J.A.C. 4A:4 is not subject to any Federal requirements or standards.

Full text of the readoption with amendments follows:

4A:4-2.4 Promotional title scope: local service

(a) If a title which is the subject of a promotional examination is part of a title series, then the examination shall be open to one of the following:

1. The next lower [or] in-series title used in the local jurisdiction;
2. The next two lower in-series titles used in the local jurisdiction; or

[2.] 3. All applicants in the unit scope who meet the open competitive requirements and all applicants in the next lower or next two lower in-series titles used in the local jurisdiction.

[(b) The title scope described in (a)2 above may be used when the appointing authority requests a wider title scope or provisionally promotes an employee who does not have permanent status in an in-series title.]

[(c)] (b) When the title which is the subject of the promotional examination is not part of a title series, the examination shall be open to all applicants having a total of one year permanent service who meet the open competitive requirements.

[(d)] (c) When a promotion is to be made from the noncompetitive division of the career service to a related entry level title in the competitive division of the career service, the examination shall be open to all applicants who meet the complete open competitive requirements and who are either serving in:

[1. Serving in the next lower or next two lower in-series noncompetitive titles or in any competitive title; or

2. Serving in all related noncompetitive titles or in any competitive title.]

1. The next lower in-series noncompetitive title used in the local jurisdiction;

2. The next two lower in-series noncompetitive titles used in the local jurisdiction;

3. All related noncompetitive titles; or

4. Any competitive title.

(d) The title scopes described in (a)2, (a)3 and (c)2 through 4 above or any combination of such scopes may be used when a wider title scope is appropriate or the appointing authority provisionally promotes an employee who does not have permanent status in the next lower in-series title of the title series established by the

Department of Personnel.

(e) In extraordinary circumstances, the Commissioner may set another appropriate title scope.

(f) The local jurisdiction may be required to provide the Department of Personnel with copies of ordinances, tables of organization or other evidence of the jurisdiction's use of titles.